

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

BELLSOUTH TELECOMMUNICATIONS, INC.'S)	
REQUEST FOR CONFIDENTIAL TREATMENT)	
OF INFORMATION FILED IN SUPPORT OF ITS)	CASE NO. 96-487
CONTRACT WITH WYATT, TARRANT & COMBS)	
FOR PATHLINK SM SERVICE)	

O R D E R

This matter arising upon petition of BellSouth Telecommunications, Inc. ("BellSouth"), filed October 16, 1996, pursuant to 807 KAR 5:001, Section 7, for confidential protection of the cost support data developed in connection with BellSouth's proposed contract for PathLinkSM Service with Wyatt, Tarrant & Combs on the grounds that disclosure of the information is likely to cause BellSouth competitive injury, and it appearing to this Commission as follows:

BellSouth has contracted with Wyatt, Tarrant & Combs to provide PathLinkSM Service. This service allows customers to transmit data over ISDN channels through the exchange network. In support of its application to approve the agreement, BellSouth has provided cost data which it seeks to protect as confidential.

The information sought to be protected is not known outside of BellSouth and is not disseminated within BellSouth except to those employees who have a legitimate business need to know and act upon the information. BellSouth seeks to preserve and protect the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That subsection of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

PathLinkSM Service is an alternative to other local exchange service offerings, private line/data services and dedicated private line networks. BellSouth's competitors for PathLinkSM Service will soon include alternate access providers.¹ BellSouth's competitors for private line/data services and networks are interexchange carriers, resellers, and vendors of microwave, digital radio, fiber, VSAT, and other wireless equipment and services. Disclosure of the information sought to be protected would enable competitors to determine BellSouth's cost and contribution from the service, which they could use in marketing their competing services to the detriment of BellSouth.

¹ In its petition BellSouth also maintains that Personal Communication Services (PCS) and cable TV providers will soon provide competition for local exchange service and would benefit from disclosure of the information. While PCS will soon provide such service, they serve a distinct market from that served by BellSouth and they do not provide effective competition for local service. Similarly, cable TV providers do not provide effective competition in the local market because they are unable to offer two-way transmission of information.

Therefore, disclosure of the information is likely to cause BellSouth competitive injury, and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the cost support data filed in support of the proposed contract with Wyatt, Tarrant & Combs for PathLinkSM Service, which BellSouth has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open for public inspection.

Done at Frankfort, Kentucky, this 14th day of November, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director